

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.SASIDHARAN NAMBIAR

THURSDAY, THE 15TH FEBRUARY 2007 / 26TH MAGHA 1928

WP(C).No. 25283 of 2006(I)

PETITIONER:

ULAHANNAN PAULOSE, KARAVATTE PENATTEL,
ORAMANA, MEMMURY, MUVATTUPUZHA.

BY ADV. SRI.GHOSH YOHANNAN
SRI.K.RAKESH ROSHAN

RESPONDENTS:

1. STATE OF KERALA, REP. BY DISTRICT
COLLECTOR, ERNAKULAM.
2. LAND ACQUISITION OFFICER,
SPL.TAHSILDAR (M.V.I.P), KOOHATTUKULAM.

BY GOVERNMENT PLEADER SRI. L.G. SURESH BABU

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 15/02/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

W.P.(C)25283/06

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1: TRUE COPY OF REPRESENTATION DATED 10.8.06.

EXT.P2: TRUE COPY OF JUDGMENT IN L.A.R.58/99

/TRUE COPY/

PA TO JUDGE.

M.SASIDHARAN NAMBIAR, J.

W.P.(C)NO.25283 OF 2006

DATED THIS THE 15th DAY OF FEBRUARY, 2007

JUDGMENT

Property of petitioner was acquired under Section 4(1) notification dated 10.4.1997. Award was passed and petitioner received the compensation as per the Award. He did not seek reference under Section 18 of Land Acquisition Act. Later, on 4.12.02 he filed an application under Section 28A of Land Acquisition Act along with copy of judgment in L.A.R.225/99 and L.A.R.226/99 contending that Court has enhanced the compensation for the similar properties under the same notification and therefore he is entitled to get enhanced compensation. The grievance of petitioner is that respondents did not consider that application. Later he found out that properties involved in L.A.R.225/99 and L.A.R.226/99 were not acquired pursuant to the same notification but a different notification.

2. According to petitioner, thereafter he filed Ext.P1 application on 10.8.06, along with copy of judgment in L.A.R.58/99 contending that he is entitled to get enhanced compensation on the basis of the enhanced compensation granted by the Court in L.A.R.58/99.

3. Learned Government Pleader made available the records. It reveals that original application was filed on 4.12.02 and judgment in L.A.R.225/99 on the basis of which claim was raised showed that it was in respect of a different Section 4(1) notification. Therefore the application filed under Section 28A was rejected.

4. Ext.P1 application could only be treated as a subsequent application filed on 10.8.06 as enhanced compensation was claimed under Section 28A on another judgment in another case than the one originally claimed. Learned Government Pleader also pointed out that under Section 28A of Land Acquisition Act, an application has to be filed within three months from the date on which Court has granted enhanced compensation for similar properties under the very same Section 4(1) notification and an applicant is entitled to get excluded only the period taken for getting certified copy of that judgment from Court. It was pointed out that judgment in L.A.R.58/99, on the basis of which enhanced compensation was sought for under Ext.P1 application, was passed on 29.8.02 and the application based on that judgment should have been filed within three months from 29.8.02.

5. Petitioner is entitled to get the period from the date on which he filed the application for certified copy and the date on which he received the certified copy excluded while computing the period for limitation. Ext.P2 shows that certified copy was obtained

on 11.11.02. It was therefore pointed out that as Ext.P1 application was not filed within the period provided under Section 28A, it is not maintainable. There is force in the submission. But as no order is passed in Ext.P1 application, respondents are directed to pass appropriate order in Ext.P1 application in accordance with law within thirty days from the date of receipt of a copy of this judgment. It is made clear that if the application was not filed within the period, respondents are competent to reject the same.

M.SASIDHARAN NAMBIAR, JUDGE

Acd

